



Order Filed on April 3, 2025
by Clerk
U.S. Bankruptcy Court
District of New Jersey

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)

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Chapter 11 Debtor and Debtor-in-Possession

In re:

DARYL FRED HELLER,

Debtor.

Case No. 25-11354 (JNP)

Chapter 11

Honorable Jerrold N. Poslusny, Jr., U.S.B.J.

**ORDER AUTHORIZING DARYL FRED HELLER, CHAPTER 11 DEBTOR
AND DEBTOR-IN-POSSESSION, TO SELL REAL PROPERTY LOCATED
AT 7605 PLEASURE AVENUE, SEA ISLE CITY, NJ, FREE AND CLEAR
OF ALL LIENS, CLAIMS AND ENCUMBRANCES PURSUANT TO
11 U.S.C. § 363 (b), (f) AND (m); AND GRANTING RELATED RELIEF**

The relief set forth on the following pages, numbered two (2) through twelve (12), is
hereby **ORDERED**.

DATED: April 3, 2025

A handwritten signature in black ink, appearing to read "Jerrold N. Poslusny, Jr.", is written over a horizontal line.

Honorable Jerrold N. Poslusny, Jr.
United States Bankruptcy Court

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Debtor: Daryl Fred Heller

Case No.: 25-11354 (JNP)

Caption: Order Authorizing Daryl Fred Heller, Chapter 11 Debtor and Debtor-in-Possession, to Sell Real Property Located at 7605 Pleasure Avenue, Sea Isle City, NJ, Free and Clear of All Liens, Claims and Encumbrances Pursuant to 11 U.S.C. § 363(b), (f) and (m); and Granting Related Relief

THIS MATTER having been presented to the Court by McManimon, Scotland & Baumann, LLC, counsel for Daryl Fred Heller, Chapter 11 debtor and debtor-in-possession (the “**Debtor**”), upon motion for an order authorizing the Debtor to sell real property located at 7605 Pleasure Avenue, Sea Isle City, New Jersey (the “**Property**”), free and clear of all liens, claims, and encumbrances pursuant to 11 U.S.C. § 363(b), (f), and (m) to Brett Levin and Gail Levin and/or their assignee or designee (collectively, the “**Buyers**”); and granting related relief (the “**Motion**”); and notice having been provided to the Office of the United States Trustee; counsel to the Buyers; to secured creditor, Fulton Bank; Debtor’s list of twenty (20) largest creditors; Notice of Appearance parties; all known lien holders of the Property; and to all other parties in interest identified in the Certificate of Service; and the Court having considered the pleadings filed by the Debtor in support of the Motion and any objections thereto, if any; and for other good cause having been shown, and counsel for the Buyers having made a proffer at a hearing conducted on April 2, 2025, and for the reasons set forth on the record at the hearing conducted on April 2, 2025,

THIS COURT HEREBY FINDS AND DETERMINES THAT:

A. Findings and Conclusions. The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure (“**Bankruptcy Rules**”), made applicable to this proceeding pursuant to Bankruptcy Rule 9014. If any of the following findings of fact constitute conclusions of law, they are adopted as such. If any of the following conclusions of law constitute findings of fact, they are adopted as such.

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Debtor: Daryl Fred Heller

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B. Jurisdiction and Venue. The Court has jurisdiction over the Motion, the Sale, and the Sale Hearing pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of these cases in this district is proper under 28 U.S.C. §§ 1408 and 1409.

C. Statutory Predicates. The statutory predicates for the relief requested in the Motion are Sections 105(a), 363, and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, and 6006, and 9014 and Rule 6004-1 of the Local Rules of the United States Bankruptcy Court for the District of New Jersey (“**Local Rules**”).

D. Notice. The Notice of Private Sale, the Sale Hearing, and the sale (“**Sale**”) constitute appropriate notice under the circumstances and complies with Sections 105(a) and 363 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, and 9014, and the Local Rules. No other or further notice of the Motion, the Sale Hearing, or the Sale is required by applicable law.

E. Title in the Contract for Sale of Real Estate (the “**Contract for Sale**”). The Debtor’s seventy-six percent (76%) interest, which percentage interest co-owner of the Property Randall S. Leaman contests and asserts should be 70%, in the Property constitutes property of the bankruptcy estate and title thereto is vested in the bankruptcy estate, to the extent of the Debtor’s interest, within the meaning of Section 541(a) of the Bankruptcy Code.

F. Co-Owner Agreement to Sale. Randall S. Leaman, a twenty-four percent (24%) co-owner of the Property, consents to the Sale of the Property pursuant to Section 363(h). Mr. Leaman has reserved his right to assert that he has a thirty percent (30%) interest in the Property as a result of an unrecorded corrective deed, and if Mr. Leaman is successful in establishing that

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he has a thirty (30%) interest in the Property, such additional six percent (6%) interest shall attach to the proceeds of the Sale.

G. Business Justification. The Debtor has demonstrated both (i) good, sufficient, and sound business purpose and justification for the Sale; and (ii) compelling circumstances for the Sale pursuant to Section 363(b) of the Bankruptcy Code.

H. Opportunity to Bid. As demonstrated by: (i) the testimony and other evidence proffered or adduced at the Sale Hearing; and (ii) the representations of counsel made on the record at the Sale Hearing, as of the Sale Hearing, the Debtor marketed the Property for sale and conducted the sale process in compliance with the Bankruptcy Code. Based upon the record of these proceedings, all creditors and other parties in interest and all prospective purchasers have been afforded a reasonable and fair opportunity to bid for the Property.

H. Highest or Otherwise Best Offer. The consideration to be paid by the Buyers for the Property is the highest or otherwise best offer received by the Debtor.

I. Good Faith Purchaser. The Buyers are good faith buyers pursuant to Section 363(m) of the Bankruptcy Code, will be acting in good faith in consummating the Sale and is not an “insider” as that term is defined in Section 101(31) of the Bankruptcy Code. As such, the Buyers are entitled to all of the protections afforded thereby.

J. No Collusion. The Contract for Sale and the Sale contemplated thereby have been negotiated, proposed, and entered into by the Debtor and the Buyers without collusion, in good faith, and from arm’s-length bargaining positions. Neither the Debtor, nor the Buyers, have engaged in any conduct that would cause or permit the Contract for Sale to be avoided, or costs or damages to be imposed, under Section 363(n) of the Bankruptcy Code.

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K. Consideration. The terms and conditions of the Contract for Sale, including the total consideration to be realized by the Debtor's estate pursuant to the Contract for Sale, are fair and reasonable, and therefore approval of the Sale at this time is in the best interests of the Debtor's estate.

L. Free and Clear. The sale of the Property to the Buyers will be, as of the closing, a legal, valid, and effective transfer of the Property, and will vest the Buyers with all right, title, and interest in the Property, free and clear of all liens and claims, with any Liens and Claims to attach to the consideration to be received by the Debtor in the same priority and subject to the same defenses and avoidability, if any, as of the Closing.

M. Satisfaction of Section 363(f) Standards. The Debtor may sell the Property free and clear of all Liens and Claims of any kind or nature whatsoever because, in each case, one or more of the standards set forth in Sections 363(f)(1)-(5) of the Bankruptcy Code have been satisfied. Any party with an interest in the Property who did not object, or who withdrew its objections, to the Sale or the Motion is deemed to have consented pursuant to Section 363(f)(2) of the Bankruptcy Code. Those parties with an interest in the Property who did object fall within one or more of the other subsections of Section 363(f) of the Bankruptcy Code and are adequately protected by having their interests, if any, attach to the cash proceeds of the Sale. Further, as an adversary proceeding has been filed against Deerfield Capital, LLC and Orrstown Bank (Adv. Pro. No. 25-01092 (JNP)) challenging the extent and validity of their liens against the Property, their liens are, at a minimum, in dispute for the purposes of 11 U.S.C. § 363(f)(4).

N. No Fraudulent Transfer. The Sale does not have the purpose of hindering, delaying, or defrauding creditors under the Bankruptcy Code or under the laws of the United

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States, any state, territory, possession, or the District of Columbia. The consideration provided by Buyers pursuant to the Contract for Sale constitutes reasonably equivalent value and fair consideration (as those terms are defined in the Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, and Section 548 of the Bankruptcy Code). The Contract for Sale represents a fair and reasonable offer to purchase the Property. Approval of the Contract for Sale and the consummation of the Sale are in the best interests of the Debtor's estates and all other parties in interests.

O. Final Order. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004 and 6006, the parties may consummate the Sale immediately upon entry of this Order. If necessary, under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, the Court expressly finds that there is no just reason for delay in the implementation of this Order and/or why this Court should not waive the 14-day stay of this Order under Rule 6004(h).

P. Best Interests. Approval of the Motion, the Contract for Sale and the consummation of the Sale contemplated thereby is in the best interests of the Debtor, the estate, and other parties in interest.

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IT IS THEREBY ORDERED AS FOLLOWS:

ORDERED that the Debtor's Motion be and hereby is granted as set forth herein; and it is further

ORDERED any and all objections and responses to the Motion that have not been withdrawn, waived, settled, or resolved, are hereby overruled and denied on the merits; and it is further

ORDERED that the bidding procedures were binding upon the Debtor, the Buyers and/or any parties participating in and/or bidding at the auction of the Property; and it is further

ORDERED that the Contract for Sale, including all other ancillary documents and addendums, and all of the terms and conditions thereof, and the Sale contemplated thereby, are hereby approved in all respects; and it is further

ORDERED that pursuant to Section 363(b) of the Bankruptcy Code, the Debtor is authorized and empowered to take any and all actions necessary or appropriate to: (a) consummate and close the Sale pursuant to and in accordance with the terms and conditions of this Sale Order and the Contract for Sale; (b) transfer and assign all right, title, and interest to the Property in accordance with the terms and conditions of this Sale Order and the Contract for Sale; and (c) execute and deliver, perform under, consummate, and implement this Sale Order and the Contract for Sale and all additional instruments and documents that may be reasonably necessary or desirable to implement this Sale Order, the Contract for Sale and the Sale, including any other ancillary documents, or as may be reasonably necessary or appropriate to the performance of the obligations as contemplated by this Sale Order, the Contract for Sale and any such other ancillary documents; and it is further

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ORDERED that as set forth in the Contract for Sale, the Debtor is authorized to sell and transfer the Property to the Buyers for the sum of \$6,430,000 (the “**Sale Proceeds**”), free and clear of any liens, claims, and encumbrances pursuant to 11 U.S.C. § 363(b), (f) and (m), with valid liens, claims and encumbrances, if any, to attach to the proceeds of sale; and it is further

ORDERED that the Sale is undertaken by the Buyers without collusion and in good faith, as that term is defined in Section 363(m) of the Bankruptcy Code, and, accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale will not affect the validity of the Sale, unless such authorization and consummation of such Sale are duly stayed pending such appeal. The Buyers are good-faith buyers within the meaning of Section 363(m) of the Bankruptcy Code and, as such, is entitled to the full protections of Section 363(m) of the Bankruptcy Code; and it is further

ORDERED that as a good-faith purchaser of the Property, the Buyers have not colluded with any of the other bidders, potential bidders, or any other parties interested in the Property, and therefore the sale of the Property may not be avoided pursuant to Section 363(n) of the Bankruptcy Code; and it is further

ORDERED that pursuant to Sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, upon the closing date and pursuant to and except as otherwise set forth in the Contract for Sale, the Property will be transferred to the Buyers free and clear of all encumbrances, claims, interests, and Liens, including mortgages, restrictions, hypothecations, charges, indentures, loan agreements, instruments, leases (except if specifically set forth in this Order), licenses, options, deeds of trust, security interests, other interests, conditional sale or other title retention agreements, pledges, and other liens (including construction, mechanics,

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materialman's, possessory and other consensual and non-consensual liens and statutory liens), judgments, demands, encumbrances, rights of first refusal, offsets, contracts, recoupment, rights of recovery, claims for reimbursement, contribution, indemnity, environmental, or tax, decrees of any court or foreign or domestic governmental entity, or charges of any kind or nature, if any, including any restriction on the use, liabilities arising under or related to the Internal Revenue Code, of the Debtor or any of the Debtor's predecessors or affiliates, claims, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, whether arising prior to or subsequent to the commencement of this Chapter 11 case, and whether imposed by agreement, understanding, law, equity or otherwise (collectively, the "**Interests or Claims**"), with all such Interests or Claims to attach to the cash proceeds of the Sale in the order of their priority, with the same validity, force, and effect that they now have as against the Property, subject to any claims and defenses that the Debtor and/or the bankruptcy estate may possess with respect thereto; and it is further

ORDERED that the Property is specifically being sold free and clear of the following liens or encumbrances pursuant to 11 U.S.C. § 363(f):

Judgment Number	Creditor	Amount
DJ-129444-2024	Superior Group ATMS LLC	\$6,017,500

ORDERED from the Sale Proceeds, at the closing the Debtor is authorized to pay any undisputed liens, including the secured claim of Fulton Bank, and customary closing costs and adjustments; and it is further

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ORDERED that in addition to payment of valid liens and other standard closing costs as disclosed in the Certification of the Debtor in support of the Motion, payment is specifically authorized to be made at closing to the Broker (as defined in the Certification of the Debtor submitted herewith) for the real estate commission in the amount of \$262,000, which is a four (4%) percent commission on the sale price of \$6,550,000; and it is further

ORDERED that the balance of the Sale Proceeds is to be remitted as follows:

- a. 24% to Randall S. Leaman; and
- b. the balance of the sale proceeds, projected to be approximately \$1,578,000 shall be held by counsel for the Debtor in an interest bearing attorney escrow account (the “MSB Attorney Trust Account”) with the requirements of 11 U.S.C. 345(b), as they pertain to the MSB Attorney Trust Account, being hereby waived and not released absent an Order of this Court which specifically provides for the use and release of funds from the MSB Attorney Trust Account.

ORDERED that the transaction will close in accordance with the terms and conditions of the Contract for Sale; notwithstanding anything contained herein to the contrary, the Closing Date may be extended upon the mutual written consent of the Debtor and Buyers or upon further Order of the Court; and it is further

ORDERED that the Debtor is selling the estate’s interests in the Property without any representation, warranties, or guarantees of any kind, other than those specifically set forth in the Contract for Sale; and it is further

ORDERED that upon consummation of the Sale, if any person or entity that has filed financing statements, mortgages, Liens, mechanic’s liens, lis pendens, or other documents or

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agreements evidencing Interests or Claims against or in the Property shall not have delivered to the Debtor prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfactions, releases of all Interests or Claims that the person or entity has with respect to the Property (unless otherwise assumed in, or permitted by, the Contract for Sale), or otherwise, then: (a) the Debtor is hereby authorized to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Property; and (b) the Buyers are hereby authorized to file, register, or otherwise record a certified copy of this Sale Order, which, once filed, registered or otherwise recorded, will constitute conclusive evidence of the release of all Interests or Claims in the Property of any kind or nature (except as otherwise assumed in, or permitted by, the Contract for Sale); provided that, notwithstanding anything in this Sale Order or the Contract for Sale to the contrary, the provisions of this Sale Order will be self-executing, and the Debtor and/or Buyers will not be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate, and implement the provisions of this Sale Order. For the avoidance of doubt, upon consummation of the Sale, the Buyers are authorized to file termination statements, lien terminations, or other amendments in any required jurisdiction to remove and record, notice filings or financing statements recorded to attach, perfect, or otherwise notice any lien or encumbrance that is extinguished or otherwise released pursuant to this Sale Order under Section 363 of the Bankruptcy Code and the related provisions of the Bankruptcy Code; and it is further

ORDERED that this Sale Order will be binding in all respects upon the Debtor, the bankruptcy estate, all creditors, all holders of any Interests or Claims (whether known or

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unknown) against the Debtor, the Buyers, and any trustees, examiners, or other fiduciary under any Section of the Bankruptcy Code, if any, subsequently appointed in the Debtor's Chapter 11 cases or upon a conversion to Chapter 7 under the Bankruptcy Code of any of the Debtor's cases; and it is further

ORDERED that nothing contained in any plan of liquidation or reorganization, or order of any type or kind entered in this Chapter 11 case, any subsequent Chapter 7 or Chapter 11 case of the Debtor, or any related proceeding subsequent to entry of this Sale Order, will conflict with or derogate from the terms of this Sale Order or the Contract for Sale; and it is further

ORDERED that if this Sale Order is inconsistent with any prior Order or pleading in this Chapter 11 case, the terms of this Sale Order will govern; and it is further

ORDERED that the stay provisions under Fed. R. Bankr. P. 6004(h), including the fourteen (14) day period, be and hereby are waived and, therefore, not applicable to this Sale; and it is further

ORDERED that this Court will retain exclusive jurisdiction to resolve any disputes relating to the sale of the Properties or the within Order.